

**UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA**

Ross Riviello,

Plaintiff,

vs.

Barclays Bank Delaware,

Defendant.

Case No.:

[Removal from the Court of Common  
Pleas of Lackawanna County, Case  
No.: 18-cv-3708]

**NOTICE OF REMOVAL**

Defendant Barclays Bank Delaware (“Barclays”) hereby removes the above-captioned action from the Lackawanna County Court of Common Pleas to the United States District Court for the Middle District of Pennsylvania pursuant to 28 U.S.C. §§ 1331, 1441, and 1446. Removal is warranted under 28 U.S.C. § 1441(a) because this is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1331. Plaintiff’s cause of action arises under the laws of the United States and Lackawanna County is the county of origin for purposes of removal under 28 U.S.C. § 1441(a).

**I. PROCEDURAL BACKGROUND**

1. Barclays is a named defendant in a lawsuit that was filed on January 10, 2019 in the Lackawanna County Court of Common Pleas, captioned *Ross Riviello v. Barclays Bank Delaware* Case No. 19-cv-138 (hereinafter the “State

Court Action”). A copy of the Complaint in the State Court Action is attached as “**Exhibit A.**”

2. Barclays has yet to be served with this Complaint.

3. Barclays filed this Notice of Removal on February 7, 2019. A copy of the Notice of Removal filed with the State Court is attached as “**Exhibit B.**”

4. The removal is timely because it is filed within 30 days of being served with the Claim<sup>1</sup>. *See* 28 U.S.C. § 1446(b).

## **II. REMOVAL IS PROPER AS THIS CASE INVOLVES A FEDERAL STATUTE**

5. Barclays removes this case on grounds of federal-question jurisdiction pursuant to 28 U.S.C. § 1331.

6. Plaintiff’s Complaint is removable under 28 U.S.C. § 1441 because it originally could have been filed in this Court under 28 U.S.C. § 1331, in that Plaintiff brings a cause of action against Barclays under the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* Specifically, Plaintiff alleges that “the foregoing acts and omissions of [Barclays] constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 *et seq.*” Compl. ¶ 38.

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<sup>1</sup> Barclays has yet to be served with the Complaint however, counsel for Barclays received notice of the filing and has discussed the matter with Plaintiff’s counsel.

7. Plaintiff further alleges that “said call came from and was generated from an “automatic telephone dialing system” as defined by 47 USC 227(a)(1).” *Id.*

¶ 11.

8. Additionally, the third and final count of Plaintiff’s Complaint alleges a violation of another Federal Statute, the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”). This FDCPA count also is removable as it could have been in this Court under 28 U.S.C. § 1331.

9. Under 28 U.S.C. § 1331, “[t]he district courts shall have original jurisdiction of all civil actions arising under the...laws...of the United States.” “[A]ny civil action brought in a state court of which the district courts of the United States have original jurisdiction may be removed by the defendant or the defendants to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. §1441(a).

10. Pursuant to 28 U.S.C. §§ 84(b) and 1441(a), venue is proper and this case is properly removed to this Court because the United States District Court for the Middle District of Pennsylvania embraces Lackawanna County, where Plaintiff’s action is pending.

11. There are no other cases related to the instant action, and Barclays has not attempted to remove this case previously.

12. Barclays hereby reserves any and all rights to assert any and all defenses to Plaintiff's Complaint, including, but not limited to, insufficiency of process, lack of personal jurisdiction, and improper venue.

**WHEREFORE**, Barclays Bank, respectfully removes Plaintiff's action from the Lackawanna County Court of Common Pleas to this Court, pursuant to 28 U.S.C. § 1441, and requests that further proceedings be conducted in this Court as provided by law.

DATED: February 7, 2019

Respectfully submitted,

By: /s/ Jack P. Bock, III

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 7<sup>th</sup> day of February, 2019 using the CM/ECF filing system, which will serve it on the following counsel of record:

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